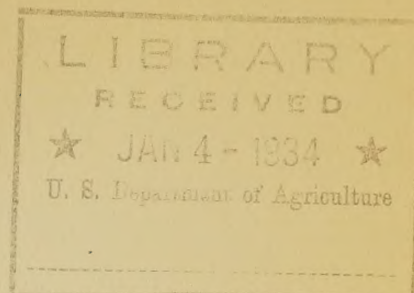


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UNITED STATES DEPARTMENT OF AGRICULTURE

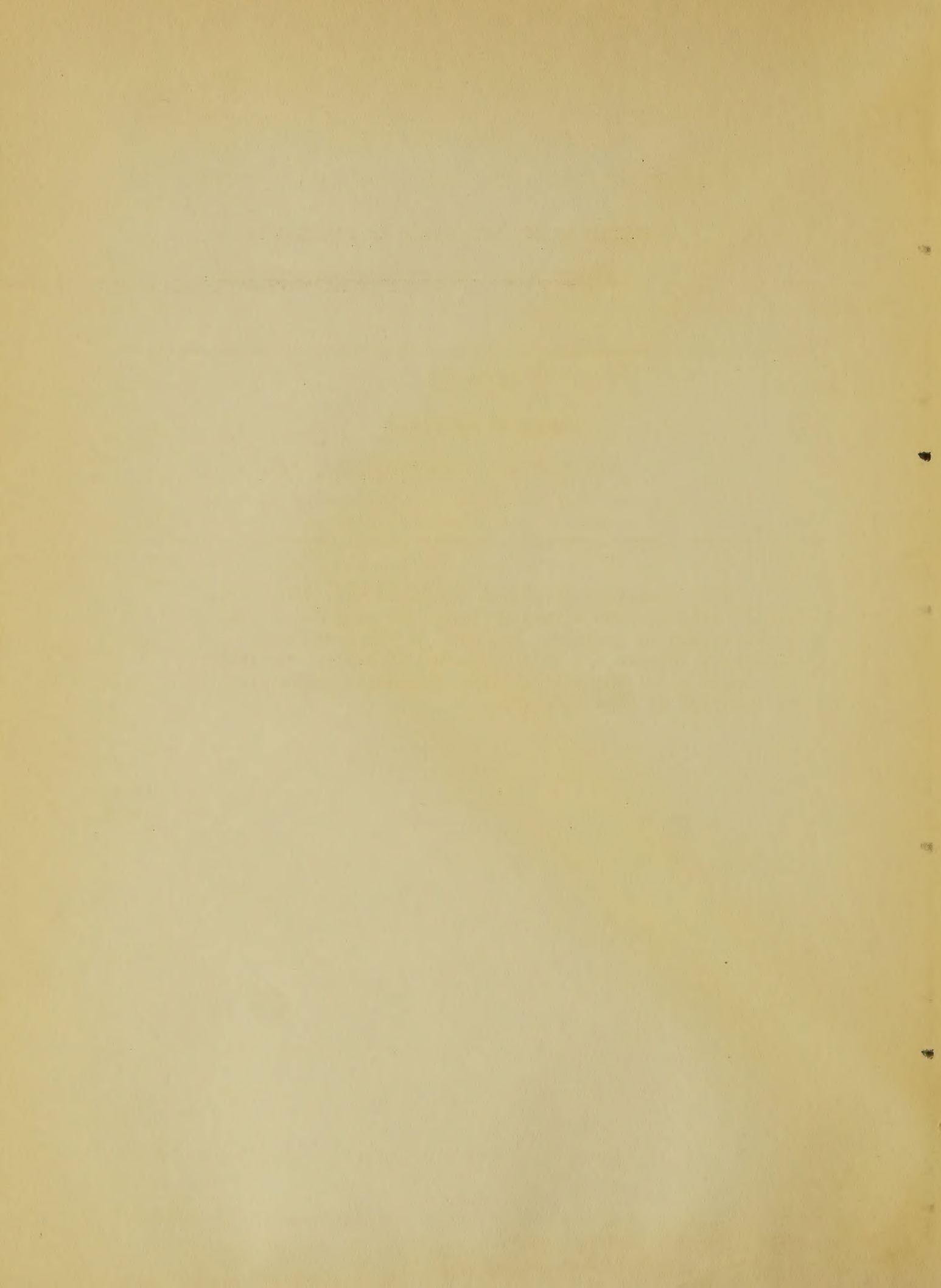
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED

MARKETING AGREEMENT

FOR MILK ---- HENDERSONVILLE, N.C.

This Marketing Agreement for Fluid Milk Industry, in its present form merely reflects the proposal of the above mentioned industry, and none of the provisions contained therein are to be regarded as having received the approval of the Agricultural Adjustment Administration as applying to this Industry.



MARKETING AGREEMENT FOR MILK

HENDERSONVILLE, NORTH CAROLINA PRODUCTION AREA

PART I

The parties to this Agreement are the contracting distributors, the contracting producers, and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress, as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended; -

- (a) To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the prewar period, August 1909 - July 1914; and-
- (b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and-
- (c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the prewar period, August 1909 - July 1914; and

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of correcting conditions now obtaining in the production of milk in the Hendersonville, North Carolina Production Area, and the distribution thereof, and to effectuate the declared policy of the Act, desire to enter into a marketing agreement under the provisions of Section 8 (2) of the Act:

NOW THEREFORE, the parties hereto agree as follows:

PART II

As used in this Agreement, the following words and phrases are defined as follows:

1. "Secretary" means the Secretary of Agriculture of the United States or his duly authorized representative.

2. "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

3. "Person" means individual, partnership, corporation, association or any other business unit.

4. "Fluid Milk" means milk, cream or any other of the articles listed in Exhibit "C" which are sold for consumption in the Sales Area.

5. "Producer" means any person who produces, in the Production Area, milk sold for consumption as fluid milk in the Sales Area.

6. "Contracting Producers" means members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. (an association duly organized and existing under the laws of the State of North Carolina) and such other producers as may become parties signatory to this Agreement according to the terms hereof.

7. "Distributor" means any of the following persons engaged in the business of handling fluid milk produced by others:

A. Persons, irrespective of whether any such person is also a producer of milk:

- (1) Who pasteurize or bottle fluid milk or process into fluid milk;
- (2) Who distribute fluid milk at wholesale or retail
 - (a) to hotels, restaurants, stores or other establishments for consumption on the premises, (b) to stores or other establishments for resale, or (c) to consumers;
- (3) Who operate stores or other establishments selling fluid milk at retail for consumption on or off the premises.

B. Persons, other than producers, who sell fluid milk to distributors.

8. "Contracting Distributors" means Kalmira Dairy Inc. (corporation duly incorporated and existing under the laws of the State of North Carolina) and such other distributors as may become parties signatory to this Agreement according to the terms hereof.

9. "Sales Area" means the territory included within the City of Hendersonville and the County of Henderson.

10. "Production Area" means the territory within the County of Henderson and also means any farms now regularly supplying fluid milk for distribution as such in the Sales Area, provided that any such farm shall cease to be within the Production Area if and when such farm voluntarily ceases for sixty days to supply milk for consumption as fluid milk.

11. "Subsidiary" means any person, of or over whom a contracting distributor or contracting producer has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

12. "Affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting distributor or contracting producer, whether by stock ownership or in any other manner, or the actual or legal control of or over whom is, either directly or indirectly, in a person who has, either directly or indirectly, actual or legal control of or over a contracting distributor or contracting producer.

13. "Books and Records" means books, records, accounts, contracts, memoranda, documents, papers, correspondence, or other written data pertaining to the business of the person in question.

14. "Milk Board" means the Milk Industry Board, as provided in Part III hereof.

15. "District Committee" means the District Milk Industry Committee, as provided in Part IV hereof.

16. "Regional Board" means the Regional Milk Industry Board, as provided in Part IV hereof.

17. "National Board" means the National Milk Industry Board, as provided in Part IV hereof.

PART III

1. "Members" as used in Part III means the members of the Milk Industry Board.

2. The contracting producers and contracting distributors shall cause to be organized within five days after the execution of this Agreement by the Secretary, a committee of five to be known as the Milk Industry Board. Two members of the Board shall be elected by the contracting producers; two by the contracting distributors; and the fifth member, to represent the consumers, shall be elected by the other four. Such fifth member shall be a resident of the Sales Area and shall have no connection financially or otherwise with the distribution of milk or products derived therefrom. The fifth member shall be designated by the Secretary in the event such member is not elected within five days after the effective date of this Agreement by the four members as above provided.

3. Members representing the contracting producers and contracting distributors, respectively, shall be elected by the respective parties in a manner to be determined by themselves, provided that a vote of producers representing not less than 70% of the total volume of milk produced within the Production Area during the calendar month next preceding such election for distribution as fluid milk, which percentage of production shall include 60% of the producers by number, and that a vote of distributors representing not less than 70% of the milk sold as fluid milk within the Sales Area during

the calendar month next preceding such election, which percentage of distribution shall include 60% of the distributors by number, respectively, shall be necessary for such election. Upon election the names of all the members shall be certified by the party or parties conducting such elections to the Secretary for his approval. The Secretary may require that such certification include a statement of the manner and vote by which the respective members were elected and the percentage of the total production or sales of fluid milk represented by such vote. Members whose names have been certified to the Secretary and approved by him shall enter upon the discharge of their duties. If the Secretary shall not approve a member, there shall be a vacancy on the Milk Board. Any member may be removed, with or without cause, by vote of all producers or distributors, as the case may be, representing a volume of milk equal to at least three-fourths of the volume and number by which he was originally elected. Any vacancies on the Milk Board shall be filled in the same manner and by the same parties as provided for the original election.

4. The Milk Board shall be organized by the members by the selection of a chairman, vice-chairman, who shall be members, and a secretary-treasurer who may or may not be a member. The Milk Board shall employ such agents, assistants and clerks as may be necessary to perform its duties. All officers and employees of the Milk Board who handle funds of the Milk Board or who sign or countersign checks upon such funds shall severally give bonds in such amounts and with such sureties as shall be determined by the Milk Board. The cost of such bonds shall be paid by the Milk Board.

5. The members shall serve without compensation, but shall be entitled to reimbursement for the expenses incurred in the performance of their duties.

6. The Milk Board shall be financed as provided in Exhibit "B", which is attached hereto and made a part hereof.

7. Subject to such regulations as the Secretary may prescribe, it shall be the duty of the Milk Board:

(a) to receive and investigate complaints of violations of the terms or conditions of this Agreement and of any license issued in respect to this Agreement and to issue warnings with respect thereto;

(b) to adjust disputes arising under this Agreement between contracting producers and/or contracting distributors;

(c) to report its findings, with recommendations, to the Secretary for proceedings under the Act or otherwise which he may deem advisable;

(d) to cooperate in the establishment of, to establish, and to record bases for all producers, and to cancel bases of particular producers, in accordance with the provisions of Exhibit "B";

(e) to receive and act upon, in accordance with the provisions of Exhibit "B", the applications of new producers as determined in Exhibit "B";

(f) to receive and collect from distributors reports of sales of the various classes of milk and any other information required by the Milk Board in the performance of its duties;

(g) to review in accordance with the provisions of Exhibit "B" the operations of any sales pool, equalization fund, and marketing plan provided for in this Agreement;

(h) to account for all funds collected pursuant to this Agreement.

PART IV

1. For the purpose of securing maximum advantages to the contracting parties and to consumers under the terms of this Agreement and similar agreements, the Secretary hereby designates the Sales Area to be in Region No. , District No. , as indicated in Exhibit "E", which is attached hereto and made a part hereof.

2. A District Milk Industry Committee shall be established for District No. , Region No. , to consist of one representative of the contracting producers of the Production Area and one representative of the contracting distributors of the Sales Area, and if and when designated, other production areas and sales areas in District No. , Region No. . Such representatives shall be designated by the Milk Boards. The chairman of the first Milk Board organized in District No. Region No. shall call by written notice the first meeting of the representatives composing the District Committee. The District Committee shall be organized at such first meeting by election from among their number, of a chairman, vice-chairman, and secretary, who shall perform the duties usually devolving upon such officers. The Secretary or his designated representative shall receive notice of all meetings, have the privilege of the floor, but shall not have a vote on any matters coming before the District Committee.

3. A Regional Milk Industry Board shall be established for Region No. to consist of one representative of the contracting producers, and one representative of the contracting distributors of District No. , and if and when designated other districts in Region No. . The representatives of each District shall be designated by the District Committee of each District. The Secretary shall call by written notice to the District Committees of Region No. the first meeting of the representatives composing the Regional Board. The Regional Board shall be organized at such first meeting by election from among their number, of a chairman, vice-chairman, secretary, and treasurer, who shall perform the duties usually devolving upon such officers. The Secretary, or his designated representative, shall receive notice of all meetings, have the privilege of the floor, but shall not have a vote on any matters coming before the Regional Board.

4. A National Milk Industry Board shall be established for the United States, to consist of one representative of the contracting producers and one representative of the contracting distributors of Region No. , and all other regions as designated in Exhibit "E", attached hereto. The representatives of each Region shall be designated by the Regional Boards of each Region. The Secretary shall call, by written notice to the secretaries of the Regional Boards, the first meeting of the representatives composing the National Board. The National Board shall be organized at such first meeting by election from among their number of a chairman, vice-chairman, secretary, and treasurer, who shall perform the duties usually devolving upon such officers. The Secretary, or his designated representative, shall receive notice of all meetings, have the privilege of the floor, but shall not have a vote on any matters coming before the National Board.

5. All voting members of the District Committees, Regional Boards and the National Board shall serve without compensation, but shall be entitled to reimbursement for the expenses incurred in the performance of their duties.

- (a) Expenses of members of District Committees shall be paid by the Milk Boards which such members represent.
- (b) Expenses of members of Regional Boards and necessary operating expenses of Regional Boards shall be paid by the Milk Boards of the Region in the manner as hereinafter described.
- (c) Expenses of members of the National Board shall be paid by the Regional Boards which such members represent.

6. A budget for a stated period shall be established by the Regional Board to cover its estimated expenses. Such budget shall be submitted to the Milk Boards of Region No. together with a statement of the amount in cents or fractions thereof per hundredweight of fluid milk sold within the region necessary to cover such budget. Each such Milk Board shall note the period of the budget, amount per hundredweight and make payment to the treasurer of the said Regional Board in accordance with the volume of fluid milk sales sold in its sales area for the three months immediately preceding date of budget. Payment of the sums determined in accordance with the provisions hereof may be paid in total or divided into as many installments as there are months covered by the period of the budget. The payment of such total sum, or the installments of such sum, if paid in installments, shall be made upon the twentieth of the month following receipt of the budget, and thereafter if payments are made in installments upon the twentieth of each succeeding month. The payments herein mentioned may, for good cause shown, be deferred from time to time upon approval of the Secretary.

7. The Regional Boards shall maintain a system of accounting and records which shall accurately reflect their true accounts and financial conditions. The Regional Boards' books and records shall be available during the usual business hours for inspection by authorized representatives of the Milk Boards within the Region.

8. Subject to such regulations as the Secretary may prescribe, it shall be the duty of the District Committee;

- (a) to act as an advisory and coordinating committee within the industry;
- (b) to make recommendations to the Regional Board relative to matters affecting the industry;
- (c) to receive and investigate complaints arising from differences between the various sales areas and production areas operating within the district under agreements similar hereto;
- (d) to report its findings, with recommendations, to the Secretary for proceedings under the Act or otherwise which he may deem advisable.

9. Subject to such regulations as the Secretary may prescribe, it shall be the duty of the Regional Board:

- (a) to act as an advisory and coordinating board within the industry;
- (b) to make recommendations to the National Board relating to matters affecting the industry;
- (c) to receive and investigate complaints arising from differences between the Districts;
- (d) to make recommendations to the Secretary on matters affecting the industry within its Region.

10. Subject to such regulations as the Secretary may prescribe, it shall be the duty of the National Board:

- (a) to act as an advisory board for the industry;
- (b) to make recommendations to the Secretary relating to matters affecting the industry;
- (c) to receive and investigate complaints arising from differences between the Regions;
- (d) to report its findings, with recommendations, to the Secretary for any proceedings under the Act or otherwise which he may deem advisable.

PART V

1. The schedule governing the prices at which, and the terms and conditions under which, milk shall be sold by the contracting producers

and purchased by the contracting distributors for distribution as fluid milk, shall be that set forth in Exhibit "A", which is attached hereto and made a part hereof. The provisions of such schedule may be changed from time to time by agreement between 75% of the contracting producers, measured by total volume of milk produced within the Production Area during the calendar month next preceding the date of any such agreement for distribution as fluid milk, which percentage of production shall include 60% of the producers by number, on the one hand, and 75% of the contracting distributors, measured by total volume of milk sold as fluid milk within the Sales Area during the calendar month next preceding any such agreement, which percentage of distribution shall include 60% of the distributors by number, on the other hand, provided, however, that such changes shall become effective only upon the written approval of the Secretary. Payments to the Milk Board made pursuant to Section four (4) of Part V of this Agreement and Section two (2) of Article I of Exhibit "B", which is attached hereto and made a part of this Agreement, and like payments to The Henderson County Mutual Bargaining Milk Producers Association, Inc. made pursuant to membership agreements, shall, respectively, be deemed part of the price paid to producers.

2. The plan governing the marketing of milk within the Production Area and the Sales Area shall be that set forth in Exhibit "B", which is attached hereto and made a part of this Agreement. Such plan may be modified by agreement between 75% of the contracting producers, measured by total volume of milk produced within the Production Area during the calendar month next preceding the date of any such agreement for distribution as fluid milk, which percentage of production shall include 60% of the producers by number, on the one hand, and 75% of the contracting distributors, measured by total volume of milk sold as fluid milk within the Sales Area during the calendar month next preceding the date of any such agreement, which percentage of distribution shall include 60% of the distributors by number, on the other hand, provided, however, that such changes shall become effective only upon the written approval of the Secretary.

3. The schedule governing the prices at which, and the terms and conditions under which, fluid milk shall be distributed and sold by the contracting distributors in the Sales Area, shall be that set forth in Exhibit "C", which is attached hereto and made a part of this Agreement. Such schedule may be changed from time to time by agreement between 75% of the contracting producers, measured by total volume of milk produced within the Production Area during the calendar month next preceding the date of any such agreement for distribution as fluid milk, which percentage of production shall include 60% of the producers by number, on the one hand, and 75% of the contracting distributors, measured by total volume of milk sold as fluid milk within the Sales Area during the calendar month next preceding the date of any such agreement, which percentage of distribution shall include 60% of the distributors by number, on the other hand, provided, however, that such changes shall become effective only upon the written approval of the Secretary.

4. The contracting distributors agree that they will not purchase milk from any producer not a member of The Henderson County Mutual Bargaining Milk Producers Association, Inc. unless such producer shall have authorized the purchasing contracting distributor to pay over to the Milk Board the same

amount per hundred pounds of milk purchased which members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. are then authorizing the contracting distributors to pay over to The Henderson County Mutual Bargaining Milk Producers Association, Inc. on behalf of its members, and such purchasing contracting distributors shall simultaneously with making payment to the producer for milk purchased, make payment as aforesaid to the Milk Board. The sums so paid shall be kept as a separate fund by the Milk Board and expended by the Milk Board in securing for non-members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. services and benefits generally similar to those which are secured by the members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. by virtue of their like payments to The Henderson County Mutual Bargaining Milk Producers Association, Inc. The Milk Board shall employ The Henderson County Mutual Bargaining Milk Producers Association, Inc. as its representative for rendering services and acquiring benefits for the non-members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. similar to those rendered and acquired by members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. by virtue of their membership whenever The Henderson County Mutual Bargaining Milk Producers Association, Inc. is in a position to render such services and confer such benefits. The Milk Board shall keep separate books and records in form satisfactory to the Secretary pertaining to such funds, which said books and records of the Milk Board shall be subject to the examination of the Secretary during the usual hours of business, and the Milk Board shall from time to time furnish the Secretary such information as the Secretary may require.

5. All contracting producers, not members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. shall be permitted to become members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. on an equal basis with existing members similarly circumstanced.

6. The contracting producers and the contracting distributors shall severally maintain systems of accounting which shall accurately reflect the true accounts and conditions of their respective businesses, which shall include any subsidiary or affiliate. Their respective books and records (including the books and records of any subsidiaries or affiliates) shall, during the usual hours of business, be subject to the examination of the Secretary to assist him in the furtherance of his powers and duties with respect to this Agreement, including verification by the Secretary of the information furnished on forms hereinafter referred to. The contracting producers and contracting distributors shall severally, from time to time, furnish information to the Secretary on and in accordance with forms to be determined by him, each of which reports shall be verified under oath. The Secretary, in his discretion, may permit the omission of any subsidiary or affiliate from any such reports. In the event that The Henderson County Mutual Bargaining Milk Producers Association, Inc. and/or the Milk Board and the Secretary shall have occasion to collect identical information from the same parties, The Henderson County Mutual Bargaining Milk Producers Association, Inc. or the Milk Board, as the case may be, shall use forms acceptable to the Secretary and arrangements shall be made for a copy of such reports to be submitted to the Secretary, The Henderson County Mutual Bargaining Milk Producers Association, Inc. and the Milk Board. All information (unless it would have been otherwise legally obtainable by the Secretary) obtained by or furnished to the Secretary, pursuant to this Section, if designated in writing as such when so obtained or furnished, shall remain

the confidential information of the Secretary, and shall not be disclosed by him except upon lawful demand by the President, by either House of the Congress, or any committee thereof, or by any court, or when offered in evidence in any hearing, authorized by the Act or otherwise, for the suspension or revocation as to one or more persons of any license issued by the Secretary, whether or not such information was obtained from or furnished by the person or persons with respect to whose license the hearing is held. The Secretary, however, may combine and publish the information obtained from or furnished by the contracting parties in the form of general statistical studies or data. The Secretary may make and issue such regulations and prescribe such penalties in accordance with the provisions of Sub-Section (c), Section Ten (10) of the Act, as he may deem advisable to prevent any violation of the confidence imposed hereby.

7. All fluid milk marketed and distributed in accordance with the terms of this Agreement shall be produced, received, transported, processed, bottled, and distributed in accordance with the applicable provisions of the health laws, ordinances and regulations of the Federal, state, municipal, or other political subdivisions within which such milk is marketed and distributed. All such ordinances and regulations for the purposes herein stated shall be deemed a part hereof.

8. The schedule of fair practices set forth in Exhibit "D", which is attached hereto and made a part of this Agreement, shall be the uniform schedule of fair practices for the Sales Area. The provisions of such schedule may be changed from time to time by agreement between 75% of the contracting distributors, measured by total volume of milk sold as fluid milk within the Sales Area during the calendar month next preceding the date of any such agreement, which percentage of distribution shall include 60% of the distributors by number, provided, however, that such changes shall become effective only upon the written approval of the Secretary.

9. The contracting distributors hereby apply for and consent to licensing by the Secretary, subject to the applicable general regulations and milk regulations, Agricultural Adjustment Administration, prescribed by the Secretary and approved by the President, and not otherwise.

10. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated in one of the following ways:

(a) The Secretary may at any time terminate this Agreement as to all parties hereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory hereto, by giving at least one day's notice, by depositing the same in the mail addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon the request of 75% of the contracting producers, which percentage of producers shall include 75% of the total volume of milk produced within the Production Area during the calendar month next preceding the date of any such re-

quest for distribution as fluid milk, and 75% of the contracting distributors, which percentage of distributors shall include 75% of the total volume of milk sold as fluid milk within the Sales Area during the calendar month next preceding the date of any such request, by giving notice in the same manner as provided in subsection (a) of this Section.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

11. The benefits, privileges and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party, except with respect to acts done prior thereto.

12. This Agreement may be executed in multiple counterparts, which, when signed by the Secretary, shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

13. After this Agreement first takes effect any producer or any distributor may become a party to this Agreement, if a counterpart hereof is executed by him and the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges and immunities conferred by this Agreement shall then be effective as to such new contracting party.

14. If any provision of this Agreement is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this Agreement and/or the applicability of any provision to any other person, circumstance or thing shall not be affected thereby.

15. Nothing contained in this Agreement shall be construed in derogation or modification of the rights of the Secretary to exercise any powers granted him by the Act or otherwise, and, in accordance with such powers, to act in the premises whenever he shall deem it advisable.

16. The Secretary may by a designation in writing, name any person, including any officer or employee of the government, to act as his representative in connection with any of the provisions contained in this Agreement.

IN WITNESS WHEREOF the contracting producers and the contracting distributors, acting under the provisions of the Agricultural Adjustment Act for the purposes and subject to the limitations therein contained and not otherwise, have hereunto set their respective hands and seals.

WHEREAS, it is provided by Section 8 of the Act as follows:

"In order to effectuate the declared policy, the Secretary of Agriculture shall have power --- To enter into marketing agreements with processors, associations of producers, and others engaged in the handling, in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the anti-trust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this Act."

And -

WHEREAS, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder; and

WHEREAS, the Secretary finds (1) that the contracting producers and the contracting distributors are engaged in the handling of fluid milk in the current of interstate commerce; and (2) that the conditions existing in the marketing and distribution of fluid milk in intrastate commerce burden the marketing and distribution of fluid milk in interstate commerce; and (3) that the marketing and distribution of fluid milk in intrastate commerce is inextricably intermingled with its marketing and distribution in interstate commerce; and

WHEREAS, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in Section 2 of the Act, as hereinbefore in this Agreement set forth;

NOW THEREFORE, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, District of Columbia, on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ Eastern Standard Time, _____.

Secretary of Agriculture.

EXHIBIT "A"

CLASSIFICATION OF MILK AND PRODUCER PRICES

1. Prices paid to producers shall be determined with reference to the rules for control of basic production and method of payment as set forth in Exhibit "B", attached hereto.

2. Classes of Milk.

All milk purchased and/or sold under this Agreement shall be divided into the following classes:

(a) Class I Milk

Class I milk shall include all milk used or otherwise disposed of as follows:

All milk sold in bulk or in bottles,
All Bulgarian buttermilk sold in bottles,
All cream buttermilk sold in bottles,
All chocolate milk,

and shall include the difference between all milk delivered to any distributor and the total reported sales of such distributor in the several classes hereinbefore or hereinafter mentioned.

(b) Class II Milk

Class II milk shall include all milk used or otherwise disposed of as follows:

All plain buttermilk,
All milk, which is not already in Class I, from which the skim milk is utilized for making cottage cheese,
All cream sold in bulk or in bottles,
All milk or cream used for ice cream mix, and
All cream stored for ice cream.

(c) Class III Milk

Class III milk shall include all milk used or otherwise disposed of as follows:

All milk used for making butter and from which the skim milk is not utilized for some product in Class I and/or Class II
All milk used for hard cheese, and
All milk used for condensed or evaporated milk.

3. Payment to producers shall be computed on a hundredweight basis.

(a) All prices of milk stated are subject to the price differential on butterfat content as hereinafter provided.

(b) Class I Milk - \$3.00 per cwt. f.o.b. distributors' platform.

(c) Class II - \$1.75 per cwt. f.o.b. distributors' platform.

(d) Class III - The butterfat content times the average price per pound, in the Chicago market for the period during which the milk is sold, of 92 score butter sold at wholesale as reported by the United States Department of Agriculture, and to the resulting figure 10 cents shall be added. The resulting sum shall be the price per one hundred pounds.

4. Butterfat premiums and penalties shall be based on 4 percent of butterfat. A differential of 4 cents shall be paid for each 1/10 of 1 percent butterfat content below or above 4 percent butterfat.

5. All butterfat, in excess of the percent of butterfat in the natural milk flow of the herd, in any class, shall be paid for at Class III price.

6. All milk delivered in any period shall be paid for not later than fifteen days following the close of the period.

EXHIBIT "B"

MARKETING PLAN

Article I

Production Control

1. The contracting distributors shall not purchase fluid milk which is not produced within the Production Area, provided, however, that the Milk Board, if it shall at any time find that the consumptive demand for Class I and Class II milk in the Sales Area exceeds the available supply of fluid milk produced within the Production Area, may permit such purchases for a limited period until such available supply shall equal such consumptive demand.

2. Not to exceed two cents per hundredweight shall be deducted from the proceeds of the sale of fluid milk purchased from the producers of the Production Area and sold by the distributors in the Sales Area and shall be paid to the Milk Board. Of such stated amount per hundredweight of such fluid milk, the producers shall pay not to exceed one cent and the distributors shall pay not to exceed one cent. Such deductions from producers shall be considered part payment for milk.

3. Funds collected by the Milk Board and not expended by the Board to meet the expenditures necessitated by the duties as set forth in Parts

III and IV of this Agreement shall be repaid to producers in proportion to their deliveries of fluid milk sold as Class I fluid milk and to the distributors in proportion to their sales of Class I fluid milk.

4. Producers who distribute only milk produced by themselves and who sell no part thereof to distributors, except at the Class III price as set forth in Exhibit "A" shall be known as producer-distributors. The producer-distributors signatory to this Agreement will accept and abide by a base which shall be the amount of fluid milk reduced to terms of 4 percent milk expressed in hundredweight which equals the average daily sales of fluid milk by the producer-distributor for the two full calendar months next preceding the effective date of this Agreement. The amount of such base shall be determined by the Milk Board. For such purpose, the books and records of the producer-distributor shall be available to the Milk Board. The producer-distributor shall for all purposes of this Agreement be considered as having two separate and distinct identities, first as a producer and second as a distributor. The producer-distributor shall be subject to all provisions of this Agreement, except to the extent that such provisions are inconsistent with this Section, in which event, the provisions of this Section shall govern.

5. For the purposes of this Agreement, the term base as used in respect to any producer, or herd of a producer, as the case may be, shall be:

(a) for that period of time dating from the execution hereof by the Secretary to and including December 31, 1934:

(1) In the case of producers who are members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. the quantity of milk recorded as such base in the files of said The Henderson County Mutual Bargaining Milk Producers Association, Inc.

(2) In the case of producers who have no base established by The Henderson County Mutual Bargaining Milk Producers Association, Inc. a base shall be allotted as promptly as possible by the Milk Board and bases so allotted by the Milk Board shall be equitable as compared with the bases established by The Henderson County Mutual Bargaining Milk Producers Association, Inc.

(b) For that period of time dating from January 1, 1935 and thereafter during the period of this Agreement, the base of each producer shall be a volume of milk which is the same percentage of the producers' average daily production during the months of January, April, July and October, 1934 as the total average daily sales of fluid milk during such months reduced to terms of 4 percent milk, is of the total average daily production of all producers in the Production Area.

(c) The base of any producer may at the discretion of the Milk Board be redetermined in accordance with the provisions of Section 4 or 5 of this Exhibit, provided that such redetermination shall not be made more often than once each twelve months.

6. The contracting distributors shall not purchase milk or cream from any new producer (the term "new producer" as used in this Agreement

shall be deemed to mean any producer who commences to sell milk within the Sales Area after the effective date of this Agreement, and who was not selling milk at the time of the effective date of this Agreement) unless and until there shall have been first obtained for such new producer a certificate of necessity from the Milk Board. Any application for a certificate of necessity shall be made to the Milk Board in writing upon forms supplied by the Milk Board. In the event that a certificate of necessity for any producer is denied after such application to the Milk Board, there shall be a right of immediate appeal to the Secretary in a manner to be determined by the Secretary, and he may, in his discretion, issue such certificate of necessity. In the event that a certificate of necessity is issued to a new producer, his established base shall be determined in the same manner as set forth in Section five (5), subsection (a), paragraph (2), of this Article except that the Milk Board, in its discretion, shall determine the period of production and sales from which such base shall be determined, provided that in no event shall such base exceed fifty percent of such new producer's production at the time of application to the Milk Board for a certificate of necessity. The base so established shall thereafter be deemed to be the established base for such new producer.

7. Producers changing from one distributor to another may retain their same base provided notice is given to the Milk Board at least fifteen days before the change is made.

8. A producer with a base who, as a tenant, rents a farm may retain his base.

9. A tenant renting a farm may transfer his individual base from farm to farm with the herd for which such base is established.

10. A landlord who rents on shares is entitled to the entire base to the exclusion of the tenant, if the landlord owns the entire herd on such farm. If the cows are jointly owned, whether in a landlord-and-tenant relationship or otherwise, the base will be divided between the joint owners according to the ownership of the cows.

11. The separate bases of any landlord and his tenant or tenants may be established and handled as a single base. When the landlord and tenant or tenants separate, the combined bases will be divided according to the proportion of ownership of the herd.

12. A producer with a base who sells his entire herd to one purchaser at one time may transfer the base to the purchaser, provided, however, that the entire herd is maintained for six months consecutively after such sale and transfer, either on the farm on which such herd shall have been established or upon the first farm to which such herd may be moved by the said purchaser. In such transfer at least as many cows of producing age as made the base must be transferred under the above conditions, except that not more than two cows for family use may be retained if the producing herd is greater than ten cows and only one cow may be retained if the herd consists of ten cows or less. Where the above conditions are not strictly complied with, the base will revert to The Henderson County Mutual Bargaining Milk Producers Association, Inc. in

the case of members of the association for reallocation and to the Milk Board for reallocation in the case of non-members of The Henderson County Mutual Bargaining Milk Producers Association, Inc.

13. A producer who moves his herd may retain his base only if thereafter milk is produced by him on a farm:

(a) which has supplied milk for fluid milk in the Sales Area within one year preceding, or

(b) which lies within a Production Area which has regularly been supplying milk as aforesaid.

14. Where a herd is dispersed for any reason, without the base having been transferred with the said herd, the producer must replace the herd within ninety days if such base is to be retained by the producer.

15. Any producer who shall voluntarily cease to market milk for fluid milk in the Sales Area for a period of more than sixty consecutive days, shall forfeit his base. In the event that he resumes production thereafter he shall be treated, for the purpose of these rules, as if he were a new producer.

16. Any producer may combine all bases to which he may be entitled under this Agreement.

17. Any producer whose average monthly shipment for any three consecutive months, is less than eighty-five percent of his base will thereby establish a new base equal to such average daily shipment.

18. All established bases dropped or not retained by producers under these rules may be reallocated by The Henderson County Mutual Bargaining Milk Producers Association, Inc. in the case of members thereof, and by the Milk Board in the case of non-members of The Henderson County Mutual Bargaining Milk Producers Association, Inc. Any producer loses all rights to his established base where the base is transferred or if said base is not retained by him under these rules.

19. Where base milk supplied to any distributor is not sufficient for that respective distributor's requirements and if no milk for holders of established bases be available to that distributor, an increase in the base apportionment shall then be made to those producers supplying milk to him at that time.

20. Excesses over base may be kept at home and such excess milk shall not be sold in the Sales Area in competition with base milk. If such excess over base is sold in the Sales Area in competition with base milk, the Milk Board shall notify the offending producer by written notice to stop or cause to be stopped such sale. In the event that such sale is not stopped within five days after the date on which such notice is mailed, the Milk Board shall, after due proof and opportunity for hearing, subject to the disapproval of the Secretary, cancel the base of the offending producer and thereupon the Milk Board shall reallocate such base, as provided in Section 18.

Article 11 through paragraph 12
shall not apply in this Agreement.

ARTICLE II

MARKETING PLAN

Equalization Pool

1. The distributors' equalization pool as hereinafter described shall become effective upon _____ and continue in effect during the period of this Agreement. The Milk Board shall administer such pool, provided that in the event the

is at the time of the effective date of this Agreement conducting a similar pool or shall be in a position to economically conduct such pool, the Milk Board shall, subject to the approval of the Secretary, designate the

administrator of such pool. A competent accountant, hereinafter termed "auditor", shall be retained by the

or, in the event the said Milk Board administers the pool, by the Milk Board. Such auditor subject to the supervision of the

or of the Milk Board, as the case may be, shall conduct the equalization pool in accordance with the following rules and regulations and such other rules and regulations as may hereafter be issued or approved by the Secretary.

2. Each distributor shall report to the auditor, on and in accordance with forms approved by the Milk Board, and on or before the fifth (5th) day of each month, the following information with respect to the calendar month immediately preceding such date (all quantities of milk being measured in hundredweight):

- (a) The quantity of milk sold or used by such distributor as Class I milk.
- (b) The quantity of milk sold or used by such distributor as Class II milk.
- (c) The quantity of milk sold or used by such distributor as Class III milk (which shall be all milk delivered to such distributors during such period which was not sold or used by such distributor as either Class I or Class II milk).
- (d) The quantity of milk delivered to said distributor by or on behalf of producers.

- (e) The quantity of milk delivered to such distributor by or on behalf of each producer, together with the name of each such producer.
- (f) The base of each such producer.
- (g) The quantity of milk reported under (e) above as having been delivered to such distributor by each producer which was within the base of such producer.
- (h) The sum of the quantities reported under (g) above as having been delivered to such distributor by each producer within the base of such producer, which shall be considered the delivered base of such distributor for such calendar month.

3. With respect to each calendar month, the auditor shall:

- (a) Compute the quantity of milk which each distributor used in each of Classes I, II and III and shall determine the total price of such respective quantities.
- (b) Compute the percentage of the quantity of milk delivered to all the distributors by producers within such producers' bases which was used by all distributors in each of such classes; and shall compute such respective percentages of each producer's delivered base, multiplying the respective results by the prices of the respective classes of milk.
- (c) Compute the sum to be paid producers per hundredweight for percent milk sold as Class I and Class II milk by multiplying the percentage of Class I and Class II milk obtained as in (b) by the respective prices of such classes, adding the result and dividing by the total quantity of Class I and II milk as obtained in 3 (a).

4. The auditor shall notify each distributor:

- (a) of the percentage of delivered base of each producer which is to be paid for at Class I and Class II prices;
- (b) of the price of Class I and Class II milk as determined in 3 (c).

5. Each distributor shall pay each of his producers for the percentage of base milk in hundredweight as notified in 4 (a) at the price as notified in 4 (b) for percent milk, plus or minus, as the case may be, the butterfat differential. All milk not paid for at Class I or Class II prices shall be paid for at the price for Class III milk.

6. If, with respect to a given distributor, the total of the results reached under (b) of paragraph 3 is less than the total of the results reached under (a) of paragraph 3, the auditor shall notify such distributor

to pay into the equalization fund the difference between such totals and such distributor shall make such payment.

7. If, with respect to a given distributor, the total of the results reached under (b) of paragraph 3 is greater than the total of the results reached under (a) of paragraph 3, the auditor shall notify the

or the Milk Board, whichever is in charge of the equalization pool, to pay to such distributor out of the equalization fund the difference between such totals, and such payments shall be made, provided, however, that if payments into the equalization fund are insufficient the payments out of the equalization fund shall be made proportionate to such difference of each distributor to the extent which payments into the equalization fund permit.

8. The notices provided for under Sections 4, 5, 6 and 7 shall be given on or before the tenth day of the month immediately succeeding the calendar month to which they apply.

9. All payments by distributors to producers shall be made on or before the fifteenth day of the month immediately succeeding the calendar month to which such payments apply.

10. All payments by distributors into the equalization fund of the difference computed under Section 6 shall be made on or before the twentieth day of the month immediately succeeding the calendar month to which such payments apply, and all payments out of the equalization fund to distributors of the difference, or sums proportionate to the differences, computed under Section 7 shall be made on or before the twenty-fifth day of such month.

11. Distributors shall keep adequate books and records disclosing all of the facts and information required by the auditor to determine, upon an audit, purchases, sales, movements out of plants and uses of all milk in its various classifications. For such purpose, the books and records of each distributor shall be available to the auditor. Any discrepancies found in the aforesaid monthly reports of purchases and sales or usage shall be adjusted when the next period's computations are made.

12. The auditor shall notify the Milk Board or

whichever is handling the equalization pool, of all reports made to, of information obtained by, and of the results of all computations made by him.

ALTERNATE PLAN

Base --- Surplus Price Plan

1. Each distributor shall report to the Milk Board:

- (a) within ten days after the effective date of this Agreement, his sales of milk classified as Class

I, Class II and Class III milk for the two full calendar months immediately preceding the execution of this Agreement;

- (b) beginning with the month of his sales classified as Class I, Class II and Class III milk; such report to be made on or before the fifth day of the calendar month;
- (c) the name of each producer from whom milk is purchased, the amount of base milk, and the total amount of milk in excess of such base;
- (d) the percentage of base milk to be paid for as Class I, Class II and Class III milk, such percentages to be determined by dividing the amounts as reported under subsection (b) by the total of delivered bases as reported under subsection (c).

2. Each distributor shall compute the amount to be paid producers:

- (a) by multiplying the percentage of Class I sales in hundredweight by the Class I price, plus or minus, as the case may be, the butterfat differential;
- (b) by multiplying the percentage of Class II sales in hundredweight by the Class II price, plus or minus, as the case may be, the butterfat differential;
- (c) by multiplying all base milk not sold and paid for as Class I or Class II milk, in hundredweight, by the Class III price.

3. Each distributor shall pay the producers:

- (a) for base milk the amount per hundredweight obtained by adding the sums determined in accordance with section 2, subsections (a), (b) and (c), and dividing by the total quantity of delivered base milk in hundredweights;
- (b) for all milk in excess of base, the amount obtained by multiplying such excess milk, in hundredweight, by the Class III price.

4. The Milk Board shall:

- (a) determine the average percentage of sales of Class I, Class II and Class III milk for the Sales Area.
- (b) determine whether or not the individual distributors have paid the producers amounts which are above or below the average price of the Sales Area for base milk.

- (c) notify the distributors of the results of the determinations under (a) and (b) hereof.
5. If the Milk Board shall find that any distributor is consistently paying 20 percent above or below the average of the market for base milk, the said Milk Board may, subject to the approval of the Secretary, cause such base milk to be diverted from such distributor. Such diversion of supply may be accomplished by transferring base milk between distributors and/or transferring producers from one distributor to another or otherwise and/or in such other manner as the Milk Board may, subject to the approval of the Secretary, determine.
 6. The notice provided for under Section 4 (c) shall be given on or before the tenth day of the month immediately succeeding the calendar month to which it applies.
 7. All payments by distributors to producers shall be made on or before the fifteenth day of the month immediately succeeding the calendar month to which such payments apply.
 8. Distributors shall keep adequate books and records disclosing all of the facts and information required by the Milk Board, to determine the purchases and the sales of all classes of milk. For such purpose, the books and records of each distributor shall be available to the Milk Board. Any discrepancies found in the aforesaid monthly reports of purchases and sales or usage shall be adjusted when the next period's computations are made.

EXHIBIT C

PRICE SCHEDULE FOR WHOLESALE AND RETAIL SALES

1. Sales of the following articles in the Sales Area shall be at prices hereinafter set forth. Sales of the following articles in bottles or containers shall be made only in bottles or containers of the size specified, and where a grade and/or percentage of butterfat is specified, only at the specified grade and/or percentage.
2. It shall not be deemed a violation of this Agreement to add to the selling price of any article or articles hereinafter listed in this Exhibit any specified sales or occupational taxes imposed by the laws of any State, if permitted by such laws, but any such additions shall be uniform as to all contracting distributors and/or sellers of milk at retail.
3. The contracting distributor may sell to any public unemployment relief agency, any welfare charity or government agency at less than the following prices, upon competitive bids or otherwise.

4. The prices listed in the retail price schedule shall apply as follows:

(a) Home delivery (column A) means retail sales by distributors, stores or markets where milk is delivered to the home of the purchaser.

(b) Store, (column B) means retail sales from stores or markets where purchaser removes the milk from place where bought.

5. Wholesale, delivered, (column C) prices shall apply in connection with sales as follows:

(a) To stores, markets, and other places where milk is re-sold in its original container for consumption other than on the premises.

(b) To restaurants, drug stores, confectioneries, hotels, and clubs where said articles are used and/or consumed on the premises.

WHOLESALE AND RETAIL PRICE SCHEDULE

| | R E T A I L | | W H O L E S A L E |
|----------------------------|------------------|-------|-------------------|
| | Home Delivery | Store | Delivered |
| | (A) | (B) | (C) |
| Milk <u>4</u> % fat | ¢ | ¢ | ¢ |
| Gallons (5 gals. and over) | | | 40 |
| (under 5 gals.) | | | 42 |
| Quarts | 13 | 13 | 11.5 |
| Pints | 7 | 7 | 6 |
| 10 oz. bottles | | | |
| Half Pints | 5 | 5 | 3.5 |
| Milk % fat | | | |
| Gallons (gals. and over) | | | |
| (under gals.) | | | |
| Quarts | | | |
| Pints | | | |
| 10 oz. bottles | | | |
| Half Pints | | | |
| Special or Guaranteed | | | |
| Milk <u>4</u> fat | | | |
| Gallons (gals. and over) | | | |
| (under gals.) | | | |
| Quarts | | | |
| Pints | | | |
| 10 oz. bottles | | | |
| Half Pints | | | |
| Certified Milk % fat | | | |
| Quarts | | | |
| Pints | | | |
| 10 oz. bottles | | | |
| Half Pints | | | |

WHOLESALE AND RETAIL PRICE SCHEDULE
(continued)

| | R E T A I L | | W H O L E S A L E |
|---------------------------------------|------------------|-------|-------------------|
| | Home Delivery | Store | Delivered |
| | (A) | (B) | (C) |
| Buttermilk (Churned) | ¢ | ¢ | ¢ |
| (10 gals. and over) | | | 15 |
| Gallons (| | | |
| (under 10 gals.) | | | 20 |
| Quarts | 8 | 8 | 7 |
| Pints | | | |
| Half Pints | 5 | 5 | 3 |
| Buttermilk (Cultured under 1% fat) | | | |
| (gals. and over | | | |
| Gallons (| | | |
| (under gals.) | | | |
| Quarts | | | |
| Pints | | | |
| Half Pints | | | |
| Buttermilk (Cultured Whole Milk) | | | |
| (gals. and over | | | |
| Gallons (| | | |
| (under gals.) | | | |
| Quarts | | | |
| Pints | | | |
| Half Pints | | | |
| Skim milk | | | |
| (gals. and over | | | |
| Gallons (| | | |
| (under gals.) | | | |
| Quarts | | | |
| Chocolate Milk % fat | | | |
| Quarts | | | |
| Pints | | | |
| 10 oz. bottles | | | |
| Half Pints | | | |

WHOLESALE AND RETAIL PRICE SCHEDULE
(continued)

| | R E T A I L | | W H O L E S A L E |
|--|------------------|-------|-------------------|
| | Home Delivery | Store | Delivered |
| | (A) | (B) | (C) |
| Cream (table or coffee) 20% fat (gals. and over Gallons ((under 5 gals. | ¢ | ¢ | ¢ |
| | | | 1.75 |
| Quarts | 50 | 50 | 45 |
| Pints | 27 | 27 | 25 |
| Half Pints | 13 | 13 | 11.5 |
| Gills | | | |
| Cream (Medium Fat) % fat (gals. and over Gallons ((under gals. | | | |
| Quarts | | | |
| Pints | | | |
| Half Pints | | | |
| Gills | | | |
| Cream (Heavy) 40% fat (gals. and over Gallons ((under 5 gals. | | | |
| | | | 2.75 |
| Quarts | 75 | 75 | 70 |
| Pints | 40 | 40 | 38 |
| Half Pints | 25 | 25 | 20 |
| Gills | | | |
| Cream (Sour) % fat (gals. and over Gallons ((under gals. | | | |
| Quarts | | | |
| Pints | | | |
| Half Pints | | | |
| Gills | | | |

WHOLESALE AND RETAIL PRICE SCHEDULE
(continued)

| | R E T A I L | | W H O L E S A L E |
|--------------------------|------------------|-------|-------------------|
| | Home Delivery | Store | Delivered |
| | (A) | (B) | (C) |
| Cottage Cheese (dry) | ¢ | ¢ | ¢ |
| Bulk (per pound) | | | |
| 1-lb. Packages | | | |
| 12 oz. " | | | |
| 10 oz. " | | | |
| Cottage Cheese (Creamed) | | | |
| Bulk (per pound) | | | |
| 1-lb. packages | | | |
| 12 oz. " | | | |
| 10 oz. " | | | |
| Other Dairy Products | | | |

EXHIBIT "D"

RULES OF FAIR PRACTICE

The following practices are considered unfair and shall not be engaged in by the contracting distributors or by their officers, employees, or agents:

- (1) Any method or device whereby fluid milk is sold or offered for sale at a price less than that stated in the Agreement, whether by discount, rebate, free service, merchandise, credit for bulk fluid milk returned, loans or credit outside the usual course of business or other valuable consideration or combined price for such milk together with another commodity sold or offered for sale whether separately or otherwise, or whereby a subsidy is given for either business or information or assistance in procuring business.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED

MARKETING AGREEMENT

FOR MILK, HENDERSONVILLE N.C.

SUBMITTED BY:

HENDERSON COUNTY MUTUAL BARGAINING MILK ASSN, INC.
HENDERSON COUNTY MILK DEALERS.

I, Ammon McClellan, Chief Hearing Clerk, Department of Agriculture, do hereby certify that this is a true and correct copy of the Marketing Agreement for Milk, Hendersonville, N.C. delivered to this office by Dr. Clyde L. King, Chief, Dairy Section.

Ammon McClellan,
Chief Hearing Clerk,
5428 South Building,
Department of Agriculture.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

REPORT

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